IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)
FRIDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

-

Writ Petition No. 2577 of 2000

Between:

1.Nagarjuna Nagar Welfare Association, Tarnaka, rep. by its

Secretary-B.Omprakash, S/o. B.Narsimha Rao.
2.Vyshali Garden Apartments Owner's Association,

Sri T.V.Narsimha Rao, Secretary, S/o. Sri Subbaiah.
3.Tirumala Apartment Owner's Association, Regd No. 5690/94,

Sri Lohit Reddy, Secretary, S/o. Sri Somashekar Reddy,
H.No. 12-13-640, Apartment No. 307.
4.Bhagya Shree Apartment Owner's Association,

Regd.No.6830/99, Sri B.Raja Rao, Ted. S.E., President,

S/o. B.Rammurthi, H.No.12-13-645/A.
5.Sri A.V.Ramana Rao S/o. A.Hanumantha Rao,
H.No.12-13-646.
6.Sri G.Satyanarayana S/o. G.Subba Rao,
H.No.12-13-647

..... PETITIONERS

AND

1.The Collector, Hyderabad District
2.Hyderabad Municipal Corporation, rep. by its Commissioner

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or direction especially one in the nature of Writ of Mandamus declaring the action of the 1st Respondent in constructing the multi-storeyed complex without a sanctioned plan, without any set-backs contrary to the building bye-laws and zoning regulations and law of the land and silently approving the same by the 2nd Respondent is illegal, intentional, arbitrary, highhanded, *mala fide* and consequently direct the Respondents to follow the rule of law and building bye-laws and further direct the Respondents to dispose of the representations of the

petitioners in accordance with law by giving an opportunity.

Counsel for the Petitioners: MR.K.V.BHANU PRASAD

Counsel for the Respondent No.1: GP FOR REVENUE

Counsel for the Respondent No.2: SMT. G.JYOTHIKIRAN, STANDING COUNSEL FOR M.C.H.

The Court made the following :

O R D E R :

The writ petition is filed by the petitioners seeking declaration of the action of 1st respondent in constructing the multi-storeyed complex without a sanctioned plan, without any set-backs contrary to the building bye-laws and zoning regulations and law of the land and silently approving the same by 2nd respondent is illegal and arbitrary, and consequently direct the respondents to follow the rule of law and building bye-laws and further direct the respondents to dispose of the representations of the petitioners in accordance with law by giving an opportunity.

2. The writ petitioners-the Nagarjuna Nagar Welfare Association, Tarnaka, and others, when first respondent started making a construction of G+2 housing scheme for the benefit of twenty one poor persons and when the Housing Corporation, Hyderabad, has sent proposal to the Municipal Corporation of Hyderabad for approval of layout and when the Municipal Corporation of Hyderabad, has approved the layout for construction of fifteen houses under G+2 scheme after examining the proposal sent by the Housing Corporation and when the construction work is also in progress, have filed this writ petition, on the ground that the senior citizens and others of the Nagarjuna Nagar Colony are using the extent of 290 sq.mts therein as lounge space, park and playground for children. As the Nagarjuna Nagar Colony is spread over in an area of 40 acres and also relying on the orders issued by the Government from time to time that no open space is left out for park and playground in the layout shall be used other than the purpose for which it is earmarked.

3. In reply to the averments made by the petitioners, the first respondent filed counter

affidavit, stating that the Special Officer and Competent Authority, Urban Land Ceiling, has declared an extent of 302.3 sq.mts. as surplus land in plot No.1 of Survey No.165/5 of Lalaguda village through office Lr.No.F2/754/76, dated 26.08.1998. The possession of the land has been taken over on 28.10.1998 and since then the above said land, covered with compound wall, was under the custody of the Mandal Revenue Officer, Maredpally. The petitioners-Colony people never used the said land as park or playground, on the other hand, the allegation that many persons in the colony are trying to grab this valuable government land under the guise of utilizing it as a lounge space. Further it is stated that on the proposal of the Housing Corporation, Hyderabad, for construction of G+2 housing scheme, the Municipal Corporation of Hyderabad, has approved the lay out for the same. Therefore, prayed the Court to dismiss the writ petition.

4. The Municipal Corporation of Hyderabad also filed its counter affidavit stating that the open space provided and reserved in the layout should be used for the public purpose only and the first respondent herein is undertaking construction work in the area in question for allotment of house sites to the weaker sections of the Society and such an action of the first respondent is only in the interest of weaker sections of the society. Further it is averred that the hut dwellers, who are residing in the area in question since several years by occupying one of the open spaces in this layout, earmarked for the park, have been removed from the said open space of Gokulnagar area in pursuance of the directions of this Court in Writ Petition No.22190 of 1999, dated 27.10.1999. The displaced hut dwellers are being rehabilitated by the first respondent on the land in question by providing them houses under economically weaker sections housing scheme of the government for their upliftment. Further it is also averred that the land in question is government land and not a lounge space of the approved layout as stated by the petitioners herein.

5. Considering the facts and circumstances of the case, admittedly the land in question, in which the first respondent is constructing G+2 housing scheme, as approved by the Municipal Corporation of Hyderabad, is a government land and the petitioners have no claim over it. On the other hand, when the hut dwellers, who occupied some space earmarked in the layout of the petitioners-colony, were evicted as per the directions of this Court at the instance of the petitioners herein, the

first respondent has taken up the issue of providing rehabilitation to the hut dwellers. Therefore, the petitioners now cannot raise hue and cry when the first respondent has undertaken the construction of G+2 Housing Scheme for providing houses to the economically weaker sections of the society. Therefore, as contended by the respondents, the land in which the houses are being constructed under the economically weaker sections housing scheme viz., G+2 is not belonged to the petitioners. Therefore, they have no claim over the land in question. Accordingly, the writ petition fails and is liable to be dismissed.

6. Accordingly, the writ petition is dismissed. No order as to costs.

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ELIPE DHARMA RAO, J.

Dated: 17th June, 2005.

CS

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1.The Collector, Hyderabad District
2.The Commissioner, Municipal Corporation of Hyderabad,

Hyderabad.

3.Two C.Cs. to the Government Pleader for Revenue, High Court

Buildings, Hyderabad. (O.U.T.)

4.2 CD copies

*Form-NIC-OGS/WP{**PRASAD**}*